IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1943 OF 2007

Mr.Jayendra Girawarmal Agarwal ...Petitioner
V/s.
Smt.Shama Ramesh Goel & Ors. ...Respondents

Ms.Sharvari Shailendra i/b. Mr.P.S. Dani for the Petitioner.
None for the Respondents.

CORAM : V.M. KANADE, J.

DATED : JULY 9, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner.

2. The petitioner takes exception to the order passed by the Joint Civil Judge, Senior Division, on an application filed by the petitioner for amendment of the written statement. The respondent no.1 filed a suit for partition and for permanent mandatory injunction. In the said suit, initially the present petitioner had filed a written statement. After the evidence was adduced by the parties, the present petitioner filed an application under Order 6, Rule 17 seeking amendment of the written statement on the ground that the initial written statement was filed on the basis of misrepresentation made by the plaintiff and that he had

never engaged the Advocate who filed written statement on his behalf. Further it was submitted that the petitioner wanted to amend the written statement and add one paragraph to the said written statement giving particulars regarding the business which was run in the name and style of Ramesh Gas Agency. It is the case of the petitioner that by the amendment, he also wanted to add the fact that this Ramesh Gas Agency was a joint family business of the plaintiff and the defendants. This application has been rejected by the trial court firstly, on the ground that there was a gross delay in filing this application and secondly, on the ground that evidence had commenced eight months before the filing of the application and the cross-examination for the plaintiff and defendants 1 to 5c was already over and the cross-examination of defendant no.6 was already in progress. Even on merits, the Court felt that no case was made out for allowing the amendment.

3. Hence, there is no merit in the submission made by the learned Counsel for the petitioner.

4. Writ petition, accordingly, is dismissed.

(V.M. KANADE, J.)